

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Santa Rosa for an order authorizing the City to construct Pierson Reach Bike and Pedestrian Path under the trestle and tracks and over the right-of-way of the Northwestern Pacific Railroad Authority, in the City of Santa Rosa, Sonoma County, State of California.

Application 02-11-018
(Filed November 6, 2002)

O P I N I O N**Summary**

The City of Santa Rosa (City) requests authority to construct a pedestrian/bike path along Santa Rosa Creek under the existing trestle and tracks of the Northwestern Pacific Railroad Authority (NWP) in the City of Santa Rosa in Sonoma County. The proposed grade-separated bike path-rail crossing will cross under the NWP tracks at milepost 53.59 and will be given CPUC Crossing Number 1085-53.59-BD.

Discussion

The proposed Pierson Reach Bike and Pedestrian Path will be an approximately 1500-foot long and 10-foot wide concrete path along the bank on the north side of Santa Rosa Creek. It will pass underneath the northernmost span of the existing 60-foot wide rail bridge that carries the tracks of the NWP across Santa Rosa Creek between Hwy 12 and East 3rd Street in the City.

The City and NWP are in agreement as to the work to be performed and the apportionment of costs. The NWP issued a Right-of-Entry permit on July 30, 2002.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Section 21000 et seq.

The Commission is a responsible agency for this project under CEQA (Public Resources Code Section 21000 et seq.). CEQA Guideline Section 15050(b) requires that a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project. The specific activities, which must be conducted by the responsible agency, are contained in CEQA Guideline Section 15096.

Safety, security, transportation and noise are within the scope of the Commission's permitting process.

In May 2001 the City completed an Initial Study concluding that the project would not have any significant effect on the environment and prepared a Draft Negative Declaration finding no significant impact. Based on comments received from the Regional Water Quality Control Board, potential environmental impacts were identified and on May 31, 2001 the City issued a Mitigated Negative Declaration making mitigation measures in compliance with the Regional Water Quality Control Board requirements a condition of project approval. By Resolution No. 24916, dated July 17, 2001, the City Council adopted the Mitigated Negative Declaration.

We have reviewed the City's environmental documents and find them adequate for our decision-making purposes. In particular we note that mitigation measures for the project include best management practices to

prevent any erosion sources from developing during and after construction of the project and to prevent possible hazardous material release into Santa Rosa Creek. Water quality monitoring and biological assessments will be incorporated into the project. Monitoring will take place before, during, and after the project.

We find that with respect to the potential impacts identified by the Regional Water Quality Control Board, the City adopted reasonable mitigations as specified by that agency as necessary to comply with its requirements and either eliminate potential impacts or reduce them to less-than-significant levels.

The Commission's Consumer Protection and Safety Division-Rail Crossings Engineering staff (RCES) inspected the site and examined the need for and safety of the proposed crossing. RCES recommends that the authority to construct the crossing be granted.

Application 02-11-018 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to building a public roadway across a railroad.

In Resolution ALJ 176-3101 dated November 21, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3101.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on November 13, 2002. No protests have been filed.
2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct Pierson Reach Bike and Pedestrian Path at separated grade below the tracks of the NWP along Santa Rosa Creek between Hwy 12 and East 3rd Street. It will be given CPUC Crossing Number 1085-53.89-BD.
3. Public convenience and necessity require the construction of Pierson Reach Bike and Pedestrian Path at separated grade in Sonoma County.
4. The City is the lead agency for this project under CEQA, as amended.
5. On May 31, 2001, the City completed a Mitigated Negative Declaration for the project which was adopted by the City Council on July 17, 2001. Mitigation measures were a condition of project approval.
6. The Commission is a responsible agency for this project, has reviewed the City's environmental documents and finds them adequate for our decision-making purposes.
7. Safety, security, transportation and noise are within the scope of the Commission's permitting process.
8. The Mitigated Negative Declaration did not identify any potential impacts related to safety, security, transportation and noise.
9. The Commission finds the lead agency adopted reasonable mitigation measures to eliminate or substantially lessen the potential impacts identified by the State Water Quality Control Board.
10. We adopt these mitigation measures for purposes of our approval.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

O R D E R**IT IS ORDERED** that:

1. The City of Santa Rosa (City) is authorized to construct a pedestrian/bike path along Santa Rosa Creek under the existing trestle and tracks of the Northwestern Pacific Railroad Authority (NWP) at the location as shown on the plans attached to the application, to be identified as CPUC No. 1085-53.59-BD.
2. Construction and maintenance costs shall be borne in accordance with an agreement entered into between the City and NWP (parties). The City shall file a copy of the agreement with the Commission's Rail Crossings Engineering Section (RCES) of the Consumer Protection and Safety Division prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.
3. The City shall file approved final construction plans with RCES prior to commencing construction.
4. Within 30 days after completion of this project, NWP shall notify the RCES in writing by submitting a Standard CPUC Form G (Report of Changes at Highway Grade Crossings and Separations) that the authorized work is completed.
5. This authorization shall expire if not exercised within three (3) years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.
6. This application is granted as set forth above.

7. Application 02-11-018 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.